THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 19459 of 2005

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Dated:08.09.2005

Between:

G. Ramakrishna Rao, S/o. Ramaiah,
R/o. Plot No. 352, Road No.33, Vivekanandanagar Colony,

Kukatpalli,
Hyderabad.

..... PETITIONER

AND

Government of Andhra Pradesh, rep. by Secretary,

Panchayat Raj & Rural Employment, Secretariat, Hyderabad,

and others.

.....RESPONDENTS

ORDER:

The petitioner herein is a retired Government servant. In March 1974 he worked as the Executive Officer of Gram Panchayat, Kamareddy. The Audit Officer, Local Funds, Nizamabad District, issued surcharge certificates on the ground that the petitioner as Executive Officer incurred unauthorized expenditure during the year 1973-74 as per the Audit Report. These surcharge certificates were issued in relation to five incidents in February 1987. It is the case of the petitioner that he preferred an appeal to the Government, but no orders were passed.

The second respondent herein on 30.05.2005 issued five proceedings. The purport of all these five proceedings is the same. On an allegation that during the period from 01.10.1973 to 31.03.1974 the petitioner incurred unauthorized expenditure of Rs.5955/-, Rs.6137.87, Rs.47,361.77, Rs.5163.87 and Rs.70,905.43, the Commissioner requested the District Collector, Nizamabad, to take action for recovery of surcharge amount. A reading of all these proceedings would show that they came to be passed on the appeal petition dated 03.05.1999 filed by the petitioner. Be that as it is, after the Commissioner passed the orders, the District Collector, the third respondent herein, issued a notice to the petitioner, dated 06.07.2005 calling upon him to remit the total amount of Rs.1,35,518/- to the Gram

Panchayat (now Kamareddy Municipality Council) within fifteen days from the date of receipt of a copy of the orders wherein he was informed that action would be initiated as per Section 254 of the A.P.Panchayat Raj Act, 1994 (for short 'the Act'). The proceedings of the Commissioner, Panchayat Raj, dated 30.05.2005, as well as the surcharge certificates issued in February 1987 are challenged in this writ petition.

The impugned proceedings are surcharge orders for alleged unauthorized expenditure incurred by the petitioner as Executive Officer of Kamareddy Panchayat during the period 1973-74. Therefore, the dispute, if any, cannot be initially gone into by this Court as per the decision of the Supreme Court in **L.Chandra Kumar v. Union of India**, as the dispute raised is service matter as per Section 15(1) read with 3(q) of the Administrative Tribunals Act, 1985.

The learned counsel for the petitioner, Ms.K.Udaya Sri, strenuously submits that though the surcharge orders passed against the petitioner in relation to his alleged unauthorized expenditure as Executive Officer, a writ is not barred. She placed reliance on the decisions of the Supreme Court in **Dr.H.Mukherjee v. S.K.Bhargava** and **Union of India v. Punnilal**. I am afraid, the submission cannot be accepted.

Section 15(1) of the Administrative Tribunals Act is to the effect that the jurisdiction, powers and authority exercisable by all the Courts in relation to, *inter alia,* all "service matters" concerning a person of local authority, "service matters" pertaining to service in connection with affairs of the States, concerning a person appointed to any service or post shall be exercised by Administrative Tribunal of the State. The term "service matters" is defined in Section 3(q) of the Administrative Tribunals Act as under.

> **3(q).** "service matters", in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation [or society] owned or controlled by the Government, as respects-
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> i. remuneration (including allowances), pension and other retirement benefits;
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> ii. tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
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> iii. leave of any kind;
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> iv. disciplinary matters; or
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> v. any other matter whatsoever;

Clause (v) of Section 3(q) of the Administrative Tribunals Act "any other matter whatsoever" indicates the emphasis laid by the Parliament on all service matters pervading all aspects thereof. If an Executive Officer of Gram Panchayat, who is in

service in connection with affairs of the State, has allegedly incurred unauthorized expenditure as Executive Officer, it is certainly a service matter. As laid down by the Supreme Court in **L.Chandra Kumar**'s case (supra), this Court lacks initial jurisdiction.

All the decisions cited by the learned counsel for the petitioner are of no assistance to the petitioner. Therefore, liberty is given to the petitioner to file an appropriate application before the A.P.Administrative Tribunal, and without expressing any opinion on the various other contentions raised by the learned counsel for the petitioner, the writ petition is dismissed. No costs.

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(V.V.S.RAO, J)

08.09.2005

vs